**COURT OF THE LOK PAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

**PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,**

**S.A.S. NAGAR (MOHALI).**

**APPEAL NO. 26/2019**

**Date of Registration : 28.05.2019**

**Date of Hearing : 01.08.2019**

**Date of Order : 16 .08.2019**

**Before:**

 **Er. Virinder Singh, Lokpal (Ombudsman), Electricity**

**In the Matter of:**

 Sh. Satnam Singh,

 Bazra Colony,

 Rahon Road,

 Ludhiana.

 ...Petitioner

 Versus

 Senior Executive Engineer,

DS Sunder Nagar Division (Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Petitioner : 1. Sh. Satnam Singh,

Petitioner Representative (PR)

 2. Sh. Ravinder Singh

Petitioner Representative (PR)

Respondent : Er. Deepinder Singh,

Senior Executive Engineer,

DS, Sunder Nagar Division (Special),

PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Petitioner against the order dated 25.04.2019 in Case No. CGL-080 of 2019 of the Consumers Grievances Redressal Forum (Forum) deciding as under:

*“The amount of Rs 1,19,473/- which is pending due to non-payment of energy bills, is recoverable. Also, as per Regulation 34.3 of Supply Code-2014, Monthly Minimum Charges for the period of disconnection and Security (consumption) and reconnection fee as applicable in accordance with Schedule of General Charges, is also* *recoverable from the Petitioner.”*

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner was having a Small Power (SP) supply category

connection with sanctioned load of 9.970 kW and contract demand (CD) of 11.077 kVA.

1. The Metering was done by providing Three Phase Four Wire,

Whole Current, 10-60A, Energy Meter. The connection was being used for manufacturing Animal Feed supplements.

1. The Petitioner paid the bill dated 29.07.2016 for Rs 10,000/- but did

not deposit the bill issued during 08/2016 and 10/2016 prepared on ‘O’(OK) Status Code.

1. A bill dated 18.11.2016 for 587kWh units amounting to Rs 84,610/-

was issued to the Petitioner which included previous balance and showed the status of the Energy Meter was ‘S’ i.e. Meter not at site. The Petitioner did not deposit the said bill whereafter, the connection was disconnected and Energy Meter was removed from site vide Disconnection order Application No.100003105751 dated 27.12.2016. But, the requisite follow up action for feeding entries in this regard in the Chronology of SAP System was not taken.

**(v)** The site of the connection was checked by DS Division, vide Load

Checking Register (LCR) No. 04/6862 dated 06.12.2018 whereby, it was reported that the Energy Meter was not at site for the last about two years and the Account should be overhauled and the connection should be disconnected permanently.

1. Accordingly, the Account of the Petitioner was closed and refund of

Rs 1,32,039/- was given to the Petitioner due to the bills issued on ‘S’ Code and it was directed to deposit the balance amount of Rs 1,19,473/- for the bill issued during 12/2018.

1. Aggrieved with the above bill, the Petitioner filed a Petition dated

14.03.2019 in the CGRF, Ludhiana, who, after hearing, passed order dated 25.04.2019 (Page 2, Para 1).

1. The Petitioner was not satisfied with the decision of the CGRF and

filed an Appeal in this Court and prayed to allow the same after making thorough inquiry in the matter.

**3. Submissions made by the Petitioner and the Respondent:**

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the Representatives of the Petitioner and the Respondent alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner:**

The Petitioner made the following submissions for consideration of this Court:

1. The Petitioner was having a Small Power Supply (SP) Category

connection with a sanctioned load of 9.970 kW and contract demand (CD) of 11.077 kVA for which, the metering was done by providing Three Phase Four Wire, Whole Current, 10-60A, Energy Meter. The connection was being used for manufacturing Animal Feed supplements.

1. The Petitioner’s industry was closed due to some issues as a result of

which, it could not make the payment of electricity bills. Accordingly, without informing the consumer, the officials of the Electricity Department disconnected its electricity connection and removed the Energy Meter on their own without the consent of the consumer and without issuing any prior Notice to it. When the Petitioner was also ready to make the payment as per reading of the Energy Meter, the Respondent was not ready to listen to its (Petitioner’s) view.

1. The PSPCL had made an excuse that the Energy Meter was never

removed by the department and falsely stated that the Energy Meter was not found at the spot at the time of checking dated 06.12.2018. A huge amount was calculated by the department amounting to Rs 1,19,474/-, which the Petitioner was unable to pay.

1. The Petitioner approached the CGRF, Ludhiana for Registration of

case and also deposited an amount of Rs 1,19,474/- and 20% of the MMC from November 2016 to June 2019.

1. While deciding the case, CGRF, Ludhiana, did not give any finding and simply passed the orders by assuming the contentions of the Respondent as true. The contentions of the Petitioner were mentioned in the order but were not discussed by the Forum at all.
2. The Forum had not taken in notice of the date of lodging of the FIR/DDR by the PSPCL. The DDR was never lodged. Moreover, The Forum ordered to recover MMC, as per the submissions of the PSPCL itself and without considering that the Energy Meter was not available there on the spot at the time of checking dated 06.12.2018.If the Energy Meter was not there at the site, MMC could not be charged. Though the Respondent failed to prove its submission, the Forum had given its decision on the said false submission of the Respondent.
3. The Forum had failed to look into the matter that the Respondent

 had not specifically disclosed the submission of the Load Checking Register (LCR) or any letter written about theft of the Energy Meter to the Anti Power Theft Police Station. Actually, the Respondent had filed the reply with unclean hands and proper inquiry was required to be conducted. The Petitioner made inquiries and he came to know that J.E. Sh. Nand Singh deposited the Energy Meter in its office. Now, when the Petitioner had to start his business in the factory, it moved an application and made other inquiries and pursued for restoring the Power Supply. When the Energy Meter could not be traced in the office of the Respondent, they furnished a LCR on 06.12.2018 after keeping mum for two years. After checking the site, in February 2019, the Respondent had written about the theft to the Anti Power Theft Police Station just to save itself.

1. The Forum had also failed to appreciate that the charged amount of Rs 1,19,474/- was not based on actual reading of the Energy Meter as the original Meter had never been shown to the Petitioner on its visits to the office of the Respondent. Rather, the Petitioner was told that the Energy Meter had been lost. The presumed amount had been charged by the Respondent and in this way, every innocent consumer is cheated at the hands of the officials of the Respondent.
2. The Respondent had also incorrectly claimed the MMC from November 2016 till March 2019, It was desirable that only MMC could be charged from the date of LCR i.e. 06.12.2018 till June 2019 and not earlier to that LCR.
3. Presumptions had no place in the facts and circumstances of the present matter. The Petitioner had been pursuing the matter for two- three months prior to the date of LCR i.e. 06.12.2018 and this was the reason that LCR had been submitted by the Respondent on 06.12.2018 to save its skin. It was seeking MMC from November 2016, which was actually illegal.
4. In view of the above, the order of CGRF, Ludhiana was required to be set- aside and the amount charged be reduced accordingly.
5. **Submissions of the Respondent:**

The Respondent, in its defence, submitted the following for consideration of this Court:

1. The Petitioner was sanctioned electric connection, bearing Account

 No. 3002456964, for Small Power Supply.

**(ii)** The Petitioner admitted that it could not make payments of its

electricity bills due to closure of its industry. Last reading on the Energy Meter was noted by the Meter Reader as on 01.10.2016, 23,638kWh/29,820kVAh and bill for the consumption of 587kWh/701 kVAh units was issued on 18.11.2016 amounting to Rs 84,610/-. This bill included Rs 81,110/- as previous balance and Rs 3,500/- as current bill. The Petitioner was liable to pay its electricity dues with interest. This was also mentioned by the CGRF in its decision.

1. The connection of the consumer was restored during the pendency of

 the case in the Forum .

1. The case was decided by the Forum keeping in view the submissions

of the Petitioner, reply of the Respondent, oral discussions, hearing of

both the parties, record produced by both the parties and as per Regulation 34.3 of Supply Code-2014.

1. Subsequently, the disputed Energy Meter was traced by the technical

staff and LCR No. 29/7032 dated 18.07.2019 was prepared by the J.E. Sh. Nand Singh for returning the said Energy Meter to ME Lab. A Notice, bearing Memo no. 2802 dated 22.07.2019, was sent to the Petitioner for ensuring its presence during checking of the Energy Meter in in ME Lab, Ludhiana.

1. On availability of the Energy Meter final reading, as per LCR No.

29/7032 dated 18.07.2019, was 23,638kWh/ 29,820 kVAh which matched with the reading mentioned on the bill issued on dated 18.11.2016. Thus the bill issued on dated 18.11.2016 was of actual consumption and billed amount was fully recoverable from the consumer with interest and the decision of the Forum was correct.

1. The appeal may be dismissed with cost in the interest of justice.

**4. Analysis:-**

 The issue requiring adjudication is the legitimacy of the recovery of the outstanding amount of Rs. 1,19,473/- due to non- payment of energy bills, Monthly Minimum Charges for the period of disconnection (11/2016 to 03/2019), Security (Consumption) and Reconnection Fee.

 *The points emerging in the present dispute are deliberated and analysed as under:*

1. Petitioner’s Representative (PR) stated that the Petitioner’s

industry was closed due to some issues as a result of which, it could not make the payment of electricity bills. Accordingly, without informing the consumer, the officials of the Respondent - PSPCL disconnected its electricity connection and removed the Energy Meter on their own without the consent of the consumer and without issuing any prior Notice to it. When the Petitioner was also ready to make the payment as per reading of the Energy Meter, the Respondent was not ready to listen to the Petitioner’s view. PR added that the PSPCL had made an excuse that the Energy Meter was never removed by the department and falsely stated that the Energy Meter was not found on the spot at the time of checking dated 06.12.2018. A huge amount was calculated by the department amounting to Rs 1,19,474/-, which the Petitioner was unable to pay. The Petitioner approached the CGRF, Ludhiana for Registration of case and also deposited an amount of Rs 1,19,474/- and 20% of the MMC from November 2016 till March 2019.While deciding the case, CGRF, Ludhiana, did not give any finding and simply passed the orders by assuming the contentions of the Respondent as true. The contentions of the Petitioner were mentioned in the order but were not discussed by the Forum at all.

The Respondent stated that the Petitioner paid bill dated 29.07.2016 for Rs 10,000/- which confirmed that Energy Meter stood installed on the spot. The Petitioner did not pay the bills issued subsequently during 08/2016 and 10/2016 on ‘O’ Code i.e. OK status. A bill dated 18.11.2016 for 587kWh/701 kVAh units amounting to Rs 84,610/- was issued to the Petitioner which included previous balance and showed the status of the Energy Meter as ‘S’ i.e. Meter not at site. The Petitioner did not deposit the said bill. The site of the connection was checked by DS Division vide Load Checking Register (LCR) No. 04/6862 dated 06.12.2018 whereby, it was reported that the Energy Meter was not at site for the last about two years and the Account should be overhauled and connection should be disconnected permanently. In compliance, the account of the Petitioner was overhauled/disconnected and the Petitioner was asked to deposit a sum of Rs 1,19,473/- . The connection was also disconnected.

1. As per evidence brought on record by the Respondent in this Court,

 the Consumption Data of the Petitioner’s connection for the years

 2015 to 2018 is tabulated below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Month | 2015 | 2016 | 2017 | 2018 |
| kWh | kVAh | Status | kWh | kVAh | Status | kWh | kVAh | Status | kWh | kVAh | Status |
| Jan |  |  |  | 735 | 0 | O | 926 | 1102 | S | 83 | 2590 | S |
| Feb |  |  |  | 703 |  |  |  |  |  | 1476 | 1476 | S |
| March | 1091 | 0 | O | 248 | 0 | O | 139 | 166 | S | 957 | 957 | S |
| April | 1187 | 0 | O | 684 |  |  | 763 | 908 | S |  |  |  |
| May | 1255 | 0 | O | 188 | 0 | O | 172 | 205 | S |  |  |  |
| June |  |  |  | 50 | 0 | O | 50 | 60 | S |  |  |  |
| July | 3207 | 0 | O | 1299 | 0 | O | 3987 | 4745 | S |  |  |  |
| Aug | 1261 | 0 | O | 1196 | 0 | O | 1657 | 1973 | S |  |  |  |
| Sept. | 1853 | 0 | O |  | 0 | O | 887 | 1056 | S | 4467 | 6749 | S |
| Oct. |  |  |  | 1293 | 1547 | O | 1371 | 1633 | S | 0 | 0 | S |
| Nov | 868 | 0 | O | 587 | 701 | S | 495 | 590 | S |  |  |  |
| Dec | 841 | 0 | O | 783 | 932 |  | 1675 | 1675 | S |  |  |  |

I find from the perusal of the above data **that billing of the Petitioner’s account from 11/2016 onwards was being done on ‘S’**

**Code i.e. ‘Energy Meter Not At Site’** but no First Information Report FIR/DDR about the Energy Meter missing since 11/2016 from the disputed site was lodged from 11/2016 to 02/2019. The FIR was actually lodged with the S.H.O., Anti Power Theft Police Station, Sarabha Nagar, Ludhiana, vide Memo No. 726 dated 28.02.2019. I also find that the connection of the Petitioner was restored during pendency of the Case in the Forum.

1. During the course of hearing in this Court on 01.08.2019, the

Respondent was asked that since the Energy Meter of the Petitioner was found in its office, it could be inferred that this might have been disconnected on account of non payment of energy bills. Accordingly, the Respondent was directed to locate and send a copy of Disconnection Order by e-mail. In response, the Respondent sent a copy of the Disconnection Order dated 27.12.2016 vide e-mail dated 08.08.2019. A perusal of the same revealed that the Energy Meter was removed from site on 27.12.2016 due to non-payment of the defaulting dues by the Petitioner and was not missing otherwise.

 *I observe that the Respondent was responsible for not terminating the Contract Agreement with the consumer after six months of the continued default (non payment of dues) as required under Regulation 33.1 of Supply Code-2014.*

1. PR also contended that the Forum issued direction for recovery of

MMC (from 11/2016 to 03/2019) and did not take notice of the date of lodging of the FIR/DDR by the PSPCL. In fact, the FIR/DDR was never lodged. Moreover, the Forum ordered to recover MMC, as per the submissions of PSPCL itself and without considering that the Energy Meter was not there on the spot. If the Energy Meter was not there at the site, MMC could not be charged. Though, the Respondent failed to prove its submission, the Forum had given its decision on the said false contention of the Respondent.

 I observe that the decision of the Forum to direct the Respondent to recover the entire outstanding payment of Energy Bills, Monthly Minimum Charges (for the period of removal of the Energy Meter from the site), Security (Consumption) and Reconnection Fee was in accordance with the provisions contained in Regulation 34.3 of the Supply Code-2014 which reads as under:

“*Where a consumer has been disconnected for more than 6 months but his service line/feeding line irrespective of voltage has not been dismantled, the connection may be reconnected after clearance of default and recovering the following charges:*

1. *Entire outstanding amount;*
2. *Monthly Minimum Charges for the period of disconnection;*

*and*

1. *Security (consumption) and reconnection fee as applicable in*

 *accordance with Schedule of General Charges.*

 *Provided the connection can be reconnected without any augmentation of system i.e. it is technically feasible to reconnect the connection from existing system”.*

**5. Conclusion:**

From the above analysis, it is observed that the Respondent defaulted in non observance of codal provisions requiring to take timely action in ensuring termination of Contract Agreement after continued default in payment of dues for more than six months even after disconnection of the power supply/removal of Energy Meter from the site and also issuing Notice, well in time to the Petitioner for deposit of outstanding dues. At the same time, the Petitioner cannot absolve itself of its responsibility/obligation to ensure timely payment of energy bills issued by the licensee in token of availing itself of services provided by the licence. Instead of finding lacunae/faults in the working of the DS Division, PSPCL, the Petitioner ought to have shown sincerity and morality instead of pointing out the omissions, if any, on the part of the Respondent at the right moment instead of raising its accusing finger only after checking dated 19.12.2018 by the DS, Sunder Nagar Division (Special), Ludhiana. As per material on record, it is established that the Energy Meter was removed from the site, vide Disconnection Order dated 27.12.2016, by the PSPCL staff and not by any outside unauthorised person. Accordingly, lodging of FIR/DDR by the Respondent without verification of its own record was uncalled for. However refund of Rs 1,32,039/- was already given to the Petitioner due to bills issued on ‘S’ Code.

Inview of the above, the legitimacy of recovery of outstanding amount of unpaid energy bills, MMC for the period of disconnection of the connection, Security (Consumption) and Reconnection Fee from the Petitioner, in terms of provisions of Regulation 34.3 of Supply Code-2014, proves beyond doubt as also decided by the CGRF, Ludhiana vide its order dated 25.04.2019.

**6. Decision:**

As a sequel of above discussions, the order dated 25.04.2019 of the

 CGRF, Ludhiana in Case No. CGL-080/2019 is upheld.

**7.** The Appeal is disposed of accordingly.

**8.** In case, the Petitioner or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016.

(VIRINDER SINGH)

August 16, 2019 Lokpal (Ombudsman)

S.A.S. Nagar (Mohali) Electricity, Punjab.